

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAM BREWART,

Plaintiff, CASE NO. 2:13-CV-11657
JUDGE VICTORIA A. ROBERTS
MAGISTRATE JUDGE ANTHONY P. PATTI

v.

TRAVELERS CASUALTY
INSURANCE COMPANY
OF AMERICA,

Defendant,

**ORDER GRANTING PLAINTIFF'S MOTION (DE 39) FOR RELIEF
FROM E.D. MICH. LR 7.1 and ALLOWING AN UNTIMELY RESPONSE
(DE 40) TO DEFENDANT'S MOTION (DE 37)**

A. Background

This lawsuit was originally filed on March 18, 2013 in Wayne County Circuit Court. DE 1 at 5-13. The causes of action include breach of contract and negligent misrepresentation. On April 12, 2013, Defendant Travelers Casualty Insurance Company of America removed the case to this Court. DE 1 at 1-4.

Nearly sixteen months later, on August 11, 2014, Travelers filed a counter-complaint alleging breach of contract and common law fraud, as well as seeking declaratory judgment. DE 31. Plaintiff answered the counterclaim on August 21, 2014. DE 32.

B. Pending Motions

Although this lawsuit was originally referred to Magistrate Judge Grand for pretrial matters (DE 8), it was reassigned to me on January 13, 2015 (DE 38). Currently before the Court is Travelers' January 8, 2015 motion for summary judgment and to amend counter complaint. DE 37. Ordinarily, a response to this motion would have been due on or about February 2, 2015. Fed. R. Civ. P. 6(a), 6(d).

On February 5, 2015, Plaintiff Brewart filed two matters: (1) a motion (DE 39) for relief from E.D. Mich. LR 7.1 and allowing an untimely response to Defendant's motion (DE 37) and (2) a response (DE 40) to Defendant's motion (DE 37).

On February 6, 2015, my case manager noticed this case for a February 9, 2014 telephonic status conference (DE 41), noting that the parties should be prepared to discuss Plaintiff's February 5, 2015 motion (DE 39).

C. Discussion

On the date set for conference, attorneys John Thomas Schroder and Glen H. Pickover appeared by telephone. Counsel for the defense agreed that having been heard in the telephone conference, it would not be necessary for the Court to consider a response brief before ruling. Having heard the oral argument of counsel

for the parties, I conclude that Plaintiff's February 5, 2015 motion (DE 39) should be granted.

Among other things, Plaintiff's counsel explained that the late filing of the response was due to an omission in scheduling within his office and the transfer of the case between attorneys within the firm. Moreover, when asked by the Court, defense counsel could not say his client would be prejudiced by permitting this late filing, nor did defense counsel have evidence that Plaintiff's counsel's tardiness in filing the response was due to bad faith.

D. Order

Accordingly, Plaintiff Brewart's February 5, 2015 motion for relief from E.D. Mich. LR 7.1 (DE 39) is GRANTED, and the Court will recognize Plaintiff Brewart's February 5, 2015 response (DE 40) in its disposition of Travelers' pending January 8, 2015 dispositive motion (DE 37).

Furthermore, attorney Schroder is DIRECTED to file an appearance of counsel on behalf of his client.

Finally, counsel for the parties are reminded to take note of this Court's Civility Principles, in particular, Attorneys' Responsibilities to Other Counsel ¶ 17.

IT IS SO ORDERED.

Dated: February 10, 2015

s/Anthony P. Patti

Anthony P. Patti

UNITED STATES MAGISTRATE JUDGE

I hereby certify that a copy of the foregoin document was sent to parties of record on February 10, 2015, electronically and/or by U.S. Mail.

s/Michael Williams

Case Manager for the

Honorable Anthony P. Patti